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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/071,599

02/08/2002

Akikazu Yoshikawa

AA-542

2691

27752

7590

05/26/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

LAMM, MARINA

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,599

Applicant(s)

YOSHIKAWA ET AL.

Examiner

Marina Lamm

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-11 and 13-23 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11,13-15 and 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Acknowledgment is made of the amendment filed 3/9/05. Claims pending are 1-3, 5-11 and 13-23. Claim 4 has been cancelled. Claims 1, 5, 6 and 21 have been amended. Claims 16 and 17 remain withdrawn from consideration as directed to non-elected species.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-9, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6-8 are viewed as indefinite because of the recitations "methyl cellulose and its derivatives" and "polyvinyl pyrrolidone and its derivatives". It is unclear what derivatives of methyl cellulose and polyvinyl pyrrolidone are encompassed by the instant claims. Therefore, the term "derivatives" presents uncertainty with respect to the question of scope of the claims.

Claim 9 is viewed as indefinite because it recites hydrogen peroxide as an additional allergen denaturing compound. The presence of hydrogen peroxide in the claimed composition would contradict the requirement of Claim 1 as amended so the composition "does not discolor fabrics and hard surfaces" because it's generally known that hydrogen peroxide discolors fibers and fabrics.

Claims 13 and 14 are rejected as being indefinite because they contain all the limitations of Claim 9 rejected for the reasons given above.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-3, 5, 10, 11, 15, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito et al. (WO 97/02025 as translated by US 6,025,312, of record).

Saito et al. teach antibacterial, bactericidal and antiseptic liquid compositions containing aluminum chloride, solvent (ethanol, water) and surfactant. See Examples 21, 25, 40. The compositions of Examples 21, 25 and 40 are free of aluminum chlorohydrate and all aluminum ions are provided as aluminum chloride. See above. The compositions 21, 25 and 40 of Saito et al. contain 0.735, 1.47 and 0.15% of aluminum chloride, respectively. The claimed allergen neutralization is inherent to the compositions of Saito et al. because their compositions contain the same aluminum compound at the same concentrations as claimed herein.

Thus, Saito et al. teach each and every limitation of Claims 1-3, 5, 10, 11, 15, 18 and 19.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Saito et al. (WO 97/02025 as translated by US 6,025,312).

Saito et al. applied as above. With respect to Claims 6-8, the aforementioned examples do not contain the claimed film-forming agent. However, Saito et al. teach using gelating agents such as carboxymethyl cellulose (CMC) in their compositions. See col. 4, lines 27-28; col. 6, lines 18-19. Further, Example 19 exemplifies a composition containing 13% of PVA and 5% of CMC. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compositions of Saito et al. such that to use CMC or PVA for their art-recognized purpose. One having ordinary skill in the art would have been motivated to do this to obtain the desired viscosity. With respect to Claim 9, the aforementioned examples do not contain the claimed additional compounds. However, Saito et al. teach using lactic acid in their compositions as a humectant. See col. 4, lines 43-44. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compositions of Saito et al. such that to use lactic acid for its art-recognized purpose. One having ordinary skill in the art would have been motivated to do this to obtain the desired moisturizing properties of the composition.

7. Claims 1-3, 5, 9-11, 15 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tvedten (WO 98/30236), of record.

Tvedten teaches aqueous biological pesticide compositions which may contain aluminum compounds such as aluminum chloride, aluminum sulfate and aluminum

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nitrate and mixtures thereof. See p. 7; Claim 68. The concentration of aluminum ion in the compositions of Tvedten is about 1% w/v or less, preferably about 0.4% w/v. See p. 7. The compositions of Tvedten may contain additional ingredients such as citric or lactic acid, H_2O_2 , surfactants, pest growth regulators, etc. and may be applied to various substrates, including articles of furniture by spraying. See pp. 4, 6, and 8. The compositions of Tvedten are effective against dust mites, carpet beetles, fabric pests and are effective at decreasing or eliminating the incidence of allergic reactions to dust. See p. 10. Tvedten does not explicitly teach the claimed composition wherein less than 10% (or less than 5%) by weight of aluminum ion is provided as aluminum chlorohydrate. However, selection of optimal species of aluminum salts within the reference's generic disclosure is obvious and within the skill of ordinary practitioner. One having ordinary skill in the art would have been motivated to do this to obtain the desired pesticidal effect of the composition.

8. Claims 9, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Saito et al. (WO 97/02025 as translated by US 6,025,312) or Tvedten (WO 98/30236) in view of Yam (US 6,015,547).

Saito et al. or Tvedten applied as above. Neither reference teaches the additional metal ions of the instant claim. However, Yam teaches using zinc ions in aqueous solution for their antiseptic/astringent properties in various formulations, including hand soaps, detergents, fabric/carpet/upholstery deodorizers, household and industrial hard surface cleaners, agricultural fungicides, etc. See col. 1, lines 16-34; col. 12, lines 16-

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67; col. 13, lines 1-38. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compositions of either Saito et al. or Tvedten such as to add the zinc ion source. One having ordinary skill in the art would have been motivated to do this to obtain an additional antiseptic and/or astringent effect.

Response to Arguments

9. Applicant's arguments with respect to claims 1-3, 5-11, 13-15 and 18-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. No claim is allowed at this time.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,719,114.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (571) 272-0618. The examiner can normally be reached on Mon-Fri from 11am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amey D. Khurana
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SUPERVISORY PATENT EXAMINER
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5/20/05

